

RECEIVED

MAY 20 2004

OFFICE OF THE SPECIAL
PROGRAMS EXAMINERMS PETITION
PATENT
2927-0113P

IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant: Noritoshi NAKAGAWA et al. Conf.: 8419
Appl. No.: 09/607,324 Group: 2855
Filed: June 30, 2000 Examiner: ALLEN, Andre
For: VISCOELASTIC CHARACTERISTIC VALUE-MEASURING
APPARATUS AND METHOD OF MEASURING
VISCOELASTIC CHARACTERISTIC VALUE

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PETITION TO WITHDRAW ABANDONMENT
SINCE REPLY WAS TIMELY FILED

FEB 06 2004

MS PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

September 3, 2003

Sir:

In response to the Notice of Abandonment mailed August 12, 2003, which issued in connection with the above-identified application, this is a Petition to withdraw the "abandonment status" of the present application, since a Reply was timely filed on July 29, 2003. As evidence of the fact that a Reply was timely filed, enclosed herewith are the following:

- a copy of the Reply filed July 29, 2003; and
- a copy of the postcard receipt which was date-stamped on July 29, 2003.

It is requested that the abandonment status of the present application be immediately removed so that prosecution may resume with full consideration and entry into the record of the timely filed Reply.

Appl. No. 09/607,324

If the U.S. Patent Examiner has any questions regarding the above matters, please contact Applicants' representative, Andrew D. Meikle, at the phone number listed below.

It is submitted that no fees are required for filing this Petition, since the error occurred because of a mistake on the part of the U.S. Patent and Trademark Office.


If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fee required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 

Andrew D. Meikle, #32,868


ADM/REG/jeb
2927-0113

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000

Attachments: Copy of Reply
Copy of postcard receipt

(Rev. 04/30/03)

P.O. Box 747
Falls Church, Virginia 22040-0747
Phone: (703) 205-8000
Fax: (703) 205-8050
(703) 698-8590 (GIV)

Birch, Stewart, Kolasch & Birch, LLP

Fax

To:	Examiner Andre Allen	From:	Robert E. Goozner
Fax:	703-746-4422	Date:	December 4, 2003
Phone:		Pages:	(38) (including cover sheet)
Your Ref.:		Our Ref.:	2927-0113P
Re:	USSN: 09/607,324	CC:	

☒ **Urgent** ☐ **For Review** ☐ **Please Comment** ☒ **Please Reply** ☐ **Please Recycle**

This transmission is intended for the sole use of the individual and entity to whom it is addressed, and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. You are hereby notified that any dissemination, distribution, or duplication of this transmission by someone other than the intended addressee or its designated agent is strictly prohibited. If your receipt of this transmission is in error, please notify this firm immediately by collect call to (703) 205-8000, and send the original transmission to us by return mail at the address above.

Comments:

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MAY 20 2004

**OFFICE OF THE SPECIAL
PROGRAMS EXAMINER**

Papers Filed herewith on: 7/29/03
 DOCKET NO.: 2927-01138 ATT.: ADM/REG
 APPLICANT(S): Novartis: Novartis AG
 APPL. NO. 091601,321 FILED: 6/26/00
 PAT. NO.: _____

☐ New Application with Transmittal Letter
☐ Utility ☐ Design ☐ CIP ☐ PCT ☐ Provisional
☐ Filing Under 37 CFR 1.53(b) ☐ CONT ☐ DIV
☐ Filing Under 37 CFR 1.53(d) (CPA)
☐ Filing Under 37 CFR 1.14(PCE)
☐ Specification Consisting of: _____ pages
☐ Combined Declaration & Power of Attorney
☐ Assignment / Cover Letter
☐ Letter to Official Draftsman
☐ Drawings _____ Sheets ☐ Formal ☐ Informal ☐ Redink
☐ Completion of Filing Requirements, PCT/O/E/O/S05
☐ Formalities Letter and Executed Declaration
☐ Priority Document(s) / Cover Letter, No. Doc. Jul-29-2003
☒ Amendment
☒ Transmittal Ltr ☒ Large Entity ☐ Small Entity
☐ Response
☐ Information Disc. Summ. PTD-1449(s)
☐ Notice of Appeal ☐ Appeal Brief
☐ Issue Fee Transmittal ☐ Sequence Listing
 FEES: \$930.00 \$1400.00 \$1820
 Letter: \$320.00 CHF 900.1834
☐ Other: _____

Receipt is hereby acknowledged of the papers filed as indicated in connection with the above identified case.
 COMMISSIONER OF PATENTS AND TRADEMARKS
 Due Date: 7/29/03
 Handwritten: _____

DOCKET NO. 2927-01138

RECEIVED

MAY 20 2004

OFFICE OF THE SPECIAL
PROGRAMS EXAMINER

COPY

COPY

MS AF
RESPONSE UNDER
37 C.F.R. § 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 2855

PATENT
2927-0113P

IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant: Noritoshi NAKAGAWA et al. Conf.: 8419
Appl. No.: 09/607,324 Group: 2855
Filed: June 30, 2000 Examiner: ALLEN, Andre
For: VISCOELASTIC CHARACTERISTIC VALUE-
MEASURING APPARATUS AND METHOD OF
MEASURING VISCOELASTIC CHARACTERISTIC
VALUE

NOTICE OF APPEAL FROM THE
PRIMARY EXAMINER TO THE BOARD OF APPEALS

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

July 29, 2003

Sir:

Applicants hereby appeal to the Board of Appeals from the decision dated January 29, 2003 of the Primary Examiner finally rejecting claims 1-24.

☐ This document is being transmitted via the Certificate of Mailing provisions of 37 C.F.R. § 1.8.

The applicant(s) hereby petition(s) for an extension of three (3) month(s) pursuant to 37 C.F.R. §§ 1.17 and 1.136(a).

The fee has been calculated as shown below:

☒ NO extensions of time have been previously obtained for responding to the Final Rejection. Thus a fee of \$930.00 is required for the full period of the above-requested extension of time.

☐ An extension of _____ () month(s) for responding to the Final Rejection was previously requested and paid for on

Appl. No. 09/607,324

_____. Thus a fee of \$0.00 is required to obtain an additional _____ () month(s) for filing the Notice of Appeal.

☐ Applicant claims small entity status. See 37 C.F.R. § 1.27.

The Government fee for filing a Notice of Appeal to the Board of Appeals is calculated as follows:

☒ Large entity - \$320.00

☐ Small Entity - \$160.00

Therefore, the TOTAL FEE due for the filing of this Notice of Appeal is \$1,250.00.

Payment of the above TOTAL FEE is being made in the following manner:

☒ Check(s) in the amount of \$930.00 and \$320.00 is/are enclosed.

☐ Please charge Deposit Account No. 02-2448 in the amount of \$0.00. A triplicate copy of this sheet is attached.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By R. C. Stewart (Reg. No. 27,046)
for Andrew D. Meikle, #32,868

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000

ADM/KJR/crt
2927-0113P

(Rev. 04/30/03)

MS AF
 REPLY UNDER 37 C.F.R. § 1.116
 EXPEDITED PROCEDURE
 EXAMINING GROUP 2855

PATENT
 2927-0113P

IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant: Noritoshi NAKAGAWA et al. Conf.: 8419
 Appl. No.: 09/607,324 Group: 2855
 Filed: June 30, 2000 Examiner: ALLEN, Andre
 For: VISCOELASTIC CHARACTERISTIC VALUE-MEASURING
 APPARATUS AND METHOD OF MEASURING
 VISCOELASTIC CHARACTERISTIC VALUE

LARGE ENTITY TRANSMITTAL FORM
FOR REPLY AFTER FINAL UNDER 37 C.F.R. § 1.116

MS AF
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

July 29, 2003

Sir:

Transmitted herewith is an amendment in the above-identified application.

☐ The enclosed document is being transmitted via the Certificate of Mailing provisions of 37 C.F.R. § 1.8.

☐ The enclosed document is being transmitted via facsimile.

The fee has been calculated as shown below:

	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR		PRESENT EXTRA	RATE	ADDITIONAL FEE
TOTAL	23	-	24	=	0	\$ 18	\$0.00
INDEPENDENT	3	-	3	=	0	\$ 84	\$0.00
<input type="checkbox"/> FIRST PRESENTATION OF A MULTIPLE DEPENDENT CLAIM						\$280	\$0.00
TOTAL							\$0.00

Appl. No. 09/607,324

- ☒ Petition for three (3) month(s) extension of time pursuant to 37 C.F.R. §§ 1.17 and 1.136(a). \$930.00 for the extension of time.
- ☐ No fee is required.
- ☒ Check(s) in the amount of \$930.00 is(are) enclosed.
- ☐ Please charge Deposit Account No. 02-2448 in the amount of \$0.00. This form is submitted in triplicate.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By

R.C. Stewart (Reg. No. 29,026)
for Andrew D. Meikle, #32,868

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000

ju
ADM/KJR/crt
2927-0113P

Attachment(s)

(Rev. 04/30/03)

MS AF
REPLY UNDER
37 C.F.R. § 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 2855

PATENT
2927-0113P

IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant: Noritoshi NAKAGAWA et al. Conf.: 8419
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MEASURING APPARATUS AND METHOD OF
MEASURING VISCOELASTIC CHARACTERISTIC
VALUE

REPLY AFTER FINAL UNDER 37 C.F.R. § 1.116

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

July 29, 2003

Sir:

In reply to the Office Action dated January 29, 2003, the due date for response having been extended three months to July 29, 2003, the following amendments and remarks are respectfully submitted in connection with the above-identified application.

This reply includes claim amendments and remarks.

The amendments presented herein comply with the "Revised Amendment Format" as set forth in the Official Gazette Notice dated February 25, 2003. In accordance with the Notice, the provisions of 37 C.F.R. § 1.121(a)-(d) are waived.

Appl. No. 09/607,324

AMENDMENTS TO THE CLAIMS

1. (Presently Amended) A viscoelastic characteristic value-measuring apparatus comprising:

an input bar and an output bar arranged in a straight line to hold a specimen made of a viscoelastic material therebetween, wherein said length of said input bar is set to not less than 1500mm and not more than 2500mm, and said length of said output bar is set to not less than 500mm and not more than 2500mm;

first and second strain gauges installed on said input bar to measure an incident strain wave generated when a front end of said input bar is hit and a reflected strain wave; and

third and fourth strain gauges installed on said output bar to measure a transmitted strain wave transmitted from said input bar to said output bar through said specimen,

wherein said input bar and said output bar are made of a viscoelastic material; and

a length of said input bar is set so that the reflected strain wave is damped and a re-reflected strain wave is not generated.

2. (Previously Amended) The measuring apparatus according to claim 1, wherein the length of said output bar is relatively less than the length of said input bar.

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3. (Original) The measuring apparatus according to claim 1, wherein said input bar and said output bar are made of a polymer.

4. (Original) The measuring apparatus according to claim 1, wherein said input bar and said output bar are made of a viscoelastic material whose viscoelastic characteristic value is different from that of the specimen in a small degree.

5. (Previously Amended) The measuring apparatus according to claim 1, wherein said first strain gauge is installed on said input bar at a front side thereof, and said second strain gauge is installed thereon at a rear side thereof, such that said first strain gauge is located between a position spaced at an interval of 10% of a whole length of said input bar from a rear end thereof and a position spaced at an interval of 70% of the whole length thereof from the rear end thereof and said second strain gauge is located between a position spaced at an interval of 8% of the whole length of said input bar from the rear end thereof and a position spaced at an interval of 62% of the whole length thereof from the rear end thereof.

6. (Previously Amended) The measuring apparatus according to claim 1, wherein said third strain gauge is installed on said

Appl. No. 09/607,324

output bar at a front side thereof, and said fourth strain gauge is installed thereon at a rear side thereof, such that said third strain gauge is located between a position spaced at an interval of 4% of the whole length of said output bar from a front end thereof and a position spaced at an interval of 25% of the whole length thereof from the front end thereof and said fourth strain gauge is located between a position spaced at an interval of 8% of the whole length of said output bar from the front end thereof and a position spaced at an interval of 50% of the whole length thereof from the front end thereof.

7. (Original) The measuring apparatus according to claim 1, wherein an interval between said first strain gauge and said second strain gauge is set to a range from 200mm to 1200mm both inclusive; and an interval between said third strain gauge and said fourth strain gauge is set to a range from 30mm to 400mm both inclusive.

8. (Original) The measuring apparatus according to claim 1, wherein said input bar and said output bar are circular and have the same sectional area; and a diameter thereof is set to a range from 10mm to 30mm both inclusive so that the sectional area thereof is larger than that of said specimen by not less than 1.0 time and not more than three times.

Appl. No. 09/607,324

9. (Presently Amended) A method of measuring a viscoelastic characteristic value, comprising the steps of:

providing a measuring apparatus having an input bar and output bar;

setting a length of said input bar such that a reflected strain wave generated in the input bar when the input bar is hit is damped and a re-reflected strain wave is not generated, wherein said length of said input bar is set to not less than 1500mm and not more than 2500mm, and said length of said output bar is set to not less than 500mm and not more than 2500mm;

making a base line value of a history of a strain wave zero by performing a zero correction at the rear end of said input bar and at the front end of said output bar;

hitting a front end of said input bar, with a specimen held between a rear end of said input bar and a front end of an output bar to generate a strain wave including an incident strain wave, the reflected strain wave, and a transmitted strain wave propagating in said input bar, said specimen, and said output bar;

measuring said incident strain wave and said reflected strain wave with first and second strain gauges installed on said input bar, and measuring a transmitted strain wave with third and fourth strain gauges installed on said output bar;

Appl. No. 09/607,324

~~estimating a history of said incident strain wave at the rear end of said input bar, a history of said reflected strain wave at the rear end of said input bar, and a history of said transmitted strain wave at the front end of said output bar by using a history of said each strain wave,~~

computing a strain speed history of a specimen, a strain history thereof, and a stress history thereof from said estimated history of said incident strain wave, said history of said reflected strain wave, and said history of said transmitted strain wave and determining a stress-strain curve of said specimen; and

computing a viscoelastic characteristic value including Young's modulus or a loss factor, from said stress-strain curve.

10. (Original) The method according to claim 9, wherein the strain speed history of said specimen, the strain history thereof, and the stress history thereof are computed by using a viscoelastic constant of each of said input bar and said output bar to determine the stress-strain curve of said specimen.

11. (Original) The method according to claim 9, wherein a low-pass filter is used to perform a correction of removing a high-frequency wave having a frequency more than 10kHz from a strain wave measured with said first, second, third, and fourth strain gauges.

12. (Currently Canceled)

13. (Original) The method according to claim 9, wherein a relaxation time λ is derived by using a tangent at a predetermined point of an initial stage of a computed strain history of a specimen after a peak to correct said strain history after said predetermined point;

$$\epsilon(t) = \epsilon_0 \cdot e^{-t/\lambda} \text{ --- (1) and}$$

where ϵ_0 is a strain at the point of contact;

a relaxation time λ is derived by using a tangent at a predetermined point of an initial stage of a computed stress history of said specimen after a peak to correct said stress history after said predetermined point;

$$\sigma(t) = \sigma_0 \cdot e^{-t/\lambda} \text{ --- (2)}$$

where σ_0 is a stress at the point of contact.

14. (Original) The method according to claim 9, wherein a length of a specimen is set to a range from 1mm to 15mm both inclusive.

15. (Previously Amended) The method according to claim 9, wherein a front end of said input bar is hit with an impact bar at an impact speed of 1m/s - 70m/s.

Appl. No. 09/607,324

16. (Previously Added) The measuring apparatus according to claim 1, further comprising:

an impact bar for hitting the front end of the input bar.

17. (Previously Added) The measuring apparatus according to claim 16, wherein the specimen includes a viscoelastic material having a viscoelastic characteristic that a maximum strain speed generated at the specimen is 500-8000 per second, when the front end of the input bar is hit with the impact bar at an impact speed of 1m/s - 70m/s.

18. (Previously Added) The measuring apparatus of claim 1, wherein the apparatus measures the strain generated at the specimen when it deforms in a relatively large amount and at a relatively high speed.

19. (Previously Added) The method according to claim 9, wherein the maximum strain speed generated at the specimen is 500-8000 per second, when the front end of the input bar is hit with a impact bar.

20. (Previously Added) The method of claim 9, wherein the viscoelastic characteristic value for the specimen is computed when

Appl. No. 09/607,324

the specimen deforms in a relatively large amount at a relative high speed.

21. (Previously Added) The measuring apparatus according to claim 1, wherein the specimen has a characteristic maximum strain deformation amount in the range from 1% to 30%.

22. (Previously Added) The method according to claim 9, wherein the specimen has a characteristic maximum strain deformation amount in the range from 1% to 30%.

23. (Previously Added) The measuring apparatus according to claim 1, wherein said length of said output bar is set to not less than 500mm nor more than 2500mm, and said length of said input bar is set to not less than 1500mm nor more than 2500mm.

24. (Previously Added) The method according to claim 9, wherein said length of said output bar is set to not less than 500mm nor more than 2500mm, and said length of said input bar is set to not less than 1500mm nor more than 2500mm.

Appl. No. 09/607,324

REMARKSStatus of the Claims

Claims 1-11 and 13-24 are pending in this application. Claim 12 has been canceled. Newly amended claim 1 is amended to further define the length of the input and output bars. Amended claim 9 is based on the incorporation of allowable claim 12. No new matter has been added by the above claim amendments.

Rejection under 35 USC 103(a)

The Examiner rejects claims 1-11 and 14-24 as obvious over Document 1 (*Impact Engineering*, Nikkan Kogyo Newspaper Ltd., October 28, 1988, pp.173-183) in view of Document 2 (Nakagawa et al., *Lecture Thesis of 16th Series of Chugoku Branch of Japan Design Engineering Society Association*, June 20, 1988, pp. 25-29). Applicants overcome the rejection by amending claim 1 to further define the length of the input and output bars so that the input bar is set to not less than 1500mm and not more than 2500mm, and the output bar is set to not less than 500mm and not more than 2500mm. Applicants submit that this limitation is neither disclosed nor suggested by the cited art. Thus, newly amended claim 1 and all claims that depend either directly or indirectly therefrom are allowable. As such, the rejection should be withdrawn.

Appl. No. 09/607,324

Applicants also amend independent claim 9 to incorporate the subject matter of claim 12, which is indicated as being allowable. Thus, the rejection over claim 9 and the claims that depend either directly or indirectly therefrom are also allowable. As such, the rejection should be withdrawn.

Conclusion

As Applicants have addressed and overcome all rejections in the Office Action, Applicants respectfully request that the rejections be withdrawn and that the claims be allowed.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) respectfully petition(s) for a three (3) month extension of time for filing a reply in connection with the present application, and the required fee of \$930.00 is attached hereto.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Kecia Reynolds (Reg. No. 47,021) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Appl. No. 09/607,324

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By *Andrew D. Meikle* # 47,021
for Andrew D. Meikle, #32,868

W
ADM/KJR/crt
2927-0113P

P.O. Box 747
Falls Church, VA 22040-0747

REG

M



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/607,324	06/30/2000	Noritoshi Nakagawa	2927-113P	8419

7590

08/12/2003

Birch Stewart Kolasch & Birch LLP
P O Box 747
Falls Church, VA 22040-0747

EXAMINER

ALLEN, ANDRE J

ART UNIT

PAPER NUMBER

2855

DATE MAILED: 08/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

DOCKETED
Petition to
Withdraw Aband
10-12-03

DOCKETED
Petition to
Revoke
4-29-04

Notice of Abandonment	Application No.	Applicant(s)	
	09/607,324	NAKAGAWA ET AL.	
	Examiner	Art Unit	
	Andre J. Allen	2855	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 29 June 2003.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

Attorney Andrew Melkle was notified on 8-6-03 of the abandoned status of this file.


EDWARD LEFKOWITZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

MS AF
RESPONSE UNDER
37 C.F.R. § 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 2855

PATENT
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Applicant: Noritoshi NAKAGAWA et al. Conf.: 8419
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MEASURING APPARATUS AND METHOD OF
MEASURING VISCOELASTIC CHARACTERISTIC
VALUE

NOTICE OF APPEAL FROM THE
PRIMARY EXAMINER TO THE BOARD OF APPEALS

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

July 29, 2003

Sir:

Applicants hereby appeal to the Board of Appeals from the decision dated January 29, 2003 of the Primary Examiner finally rejecting claims 1-24.

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The fee has been calculated as shown below:

☒ NO extensions of time have been previously obtained for responding to the Final Rejection. Thus a fee of \$930.00 is required for the full period of the above-requested extension of time.

☐ An extension of _____ () month(s) for responding to the Final Rejection was previously requested and paid for on

Appl. No. 09/607,324

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☒ Check(s) in the amount of \$930.00 and \$320.00 is/are enclosed.

☐ Please charge Deposit Account No. 02-2448 in the amount of \$0.00. A triplicate copy of this sheet is attached.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By *R. C. Stewart* (Reg. No. 27,066)
for Andrew D. Meikle, #32,868

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AK
ADM/KJR/crt
2927-0113P

(Rev. 04/30/03)

MS AF
 REPLY UNDER 37 C.F.R. § 1.116
 EXPEDITED PROCEDURE
 EXAMINING GROUP 2855

PATENT
 2927-0113P

IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant: Noritoshi NAKAGAWA et al. Conf.: 8419
 Appl. No.: 09/607,324 Group: 2855
 Filed: June 30, 2000 Examiner: ALLEN, Andre
 For: VISCOELASTIC CHARACTERISTIC VALUE-MEASURING
 APPARATUS AND METHOD OF MEASURING
 VISCOELASTIC CHARACTERISTIC VALUE

LARGE ENTITY TRANSMITTAL FORM
FOR REPLY AFTER FINAL UNDER 37 C.F.R. § 1.116

MS AF
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

July 29, 2003

Sir:

Transmitted herewith is an amendment in the above-identified application.

☐ The enclosed document is being transmitted via the Certificate of Mailing provisions of 37 C.F.R. § 1.8.

☐ The enclosed document is being transmitted via facsimile.

The fee has been calculated as shown below:

	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR		PRESENT EXTRA	RATE	ADDITIONAL FEE
TOTAL	23	-	24	=	0	\$ 18	\$0.00
INDEPENDENT	3	-	3	=	0	\$ 84	\$0.00
<input type="checkbox"/> FIRST PRESENTATION OF A MULTIPLE DEPENDENT CLAIM						\$280	\$0.00
						TOTAL	\$0.00

Appl. No. 09/607,324

- ☒ Petition for three (3) month(s) extension of time pursuant to 37 C.F.R. §§ 1.17 and 1.136(a). \$930.00 for the extension of time.
- ☐ No fee is required.
- ☒ Check(s) in the amount of \$930.00 is(are) enclosed.
- ☐ Please charge Deposit Account No. 02-2448 in the amount of \$0.00. This form is submitted in triplicate.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

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in
ADM/KJR/crt
2927-0113P

Attachment(s)

(Rev. 04/30/03)

MS AF
REPLY UNDER
37 C.F.R. § 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 2855

PATENT
2927-0113P

IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant: Noritoshi NAKAGAWA et al. Conf.: 8419
Appl. No.: 09/607,324 Group: 2855
Filed: June 30, 2000 Examiner: ALLEN, Andre
For: VISCOELASTIC CHARACTERISTIC VALUE-
MEASURING APPARATUS AND METHOD OF
MEASURING VISCOELASTIC CHARACTERISTIC
VALUE

REPLY AFTER FINAL UNDER 37 C.F.R. § 1.116

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

July 29, 2003

Sir:

In reply to the Office Action dated January 29, 2003, the due date for response having been extended three months to July 29, 2003, the following amendments and remarks are respectfully submitted in connection with the above-identified application.

This reply includes claim amendments and remarks.

The amendments presented herein comply with the "Revised Amendment Format" as set forth in the Official Gazette Notice dated February 25, 2003. In accordance with the Notice, the provisions of 37 C.F.R. § 1.121(a)-(d) are waived.

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AMENDMENTS TO THE CLAIMS

1. (Presently Amended) A viscoelastic characteristic value-measuring apparatus comprising:

an input bar and an output bar arranged in a straight line to hold a specimen made of a viscoelastic material therebetween, wherein said length of said input bar is set to not less than 1500mm and not more than 2500mm, and said length of said output bar is set to not less than 500mm and not more than 2500mm;

first and second strain gauges installed on said input bar to measure an incident strain wave generated when a front end of said input bar is hit and a reflected strain wave; and

third and fourth strain gauges installed on said output bar to measure a transmitted strain wave transmitted from said input bar to said output bar through said specimen,

wherein said input bar and said output bar are made of a viscoelastic material; and

a length of said input bar is set so that the reflected strain wave is damped and a re-reflected strain wave is not generated.

2. (Previously Amended) The measuring apparatus according to claim 1, wherein the length of said output bar is relatively less than the length of said input bar.

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3. (Original) The measuring apparatus according to claim 1, wherein said input bar and said output bar are made of a polymer.

4. (Original) The measuring apparatus according to claim 1, wherein said input bar and said output bar are made of a viscoelastic material whose viscoelastic characteristic value is different from that of the specimen in a small degree.

5. (Previously Amended) The measuring apparatus according to claim 1, wherein said first strain gauge is installed on said input bar at a front side thereof, and said second strain gauge is installed thereon at a rear side thereof, such that said first strain gauge is located between a position spaced at an interval of 10% of a whole length of said input bar from a rear end thereof and a position spaced at an interval of 70% of the whole length thereof from the rear end thereof and said second strain gauge is located between a position spaced at an interval of 8% of the whole length of said input bar from the rear end thereof and a position spaced at an interval of 62% of the whole length thereof from the rear end thereof.

6. (Previously Amended) The measuring apparatus according to claim 1, wherein said third strain gauge is installed on said

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output bar at a front side thereof, and said fourth strain gauge is installed thereon at a rear side thereof, such that said third strain gauge is located between a position spaced at an interval of 4% of the whole length of said output bar from a front end thereof and a position spaced at an interval of 25% of the whole length thereof from the front end thereof and said fourth strain gauge is located between a position spaced at an interval of 8% of the whole length of said output bar from the front end thereof and a position spaced at an interval of 50% of the whole length thereof from the front end thereof.

7. (Original) The measuring apparatus according to claim 1, wherein an interval between said first strain gauge and said second strain gauge is set to a range from 200mm to 1200mm both inclusive; and an interval between said third strain gauge and said fourth strain gauge is set to a range from 30mm to 400mm both inclusive.

8. (Original) The measuring apparatus according to claim 1, wherein said input bar and said output bar are circular and have the same sectional area; and a diameter thereof is set to a range from 10mm to 30mm both inclusive so that the sectional area thereof is larger than that of said specimen by not less than 1.0 time and not more than three times.

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9. (Presently Amended) A method of measuring a viscoelastic characteristic value, comprising the steps of:

providing a measuring apparatus having an input bar and output bar;

setting a length of said input bar such that a reflected strain wave generated in the input bar when the input bar is hit is damped and a re-reflected strain wave is not generated, wherein said length of said input bar is set to not less than 1500mm and not more than 2500mm, and said length of said output bar is set to not less than 500mm and not more than 2500mm;

making a base line value of a history of a strain wave zero by performing a zero correction at the rear end of said input bar and at the front end of said output bar;

hitting a front end of said input bar, with a specimen held between a rear end of said input bar and a front end of an output bar to generate a strain wave including an incident strain wave, the reflected strain wave, and a transmitted strain wave propagating in said input bar, said specimen, and said output bar;

measuring said incident strain wave and said reflected strain wave with first and second strain gauges installed on said input bar, and measuring a transmitted strain wave with third and fourth strain gauges installed on said output bar;

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~~estimating a history of said incident strain wave at the rear end of said input bar, a history of said reflected strain wave at the rear end of said input bar, and a history of said transmitted strain wave at the front end of said output bar by using a history of said each strain wave,~~

computing a strain speed history of a specimen, a strain history thereof, and a stress history thereof from said estimated history of said incident strain wave, said history of said reflected strain wave, and said history of said transmitted strain wave and determining a stress-strain curve of said specimen; and

computing a viscoelastic characteristic value including Young's modulus or a loss factor, from said stress-strain curve.

10. (Original) The method according to claim 9, wherein the strain speed history of said specimen, the strain history thereof, and the stress history thereof are computed by using a viscoelastic constant of each of said input bar and said output bar to determine the stress-strain curve of said specimen.

11. (Original) The method according to claim 9, wherein a low-pass filter is used to perform a correction of removing a high-frequency wave having a frequency more than 10kHz from a strain wave measured with said first, second, third, and fourth strain gauges.

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12. (Currently Canceled)

13. (Original) The method according to claim 9, wherein a relaxation time λ is derived by using a tangent at a predetermined point of an initial stage of a computed strain history of a specimen after a peak to correct said strain history after said predetermined point;

$$\epsilon(t) = \epsilon_0 \cdot e^{-t/\lambda} \text{ --- (1) and}$$

where ϵ_0 is a strain at the point of contact;

a relaxation time λ is derived by using a tangent at a predetermined point of an initial stage of a computed stress history of said specimen after a peak to correct said stress history after said predetermined point;

$$\sigma(t) = \sigma_0 \cdot e^{-t/\lambda} \text{ --- (2)}$$

where σ_0 is a stress at the point of contact.

14. (Original) The method according to claim 9, wherein a length of a specimen is set to a range from 1mm to 15mm both inclusive.

15. (Previously Amended) The method according to claim 9, wherein a front end of said input bar is hit with an impact bar at an impact speed of 1m/s - 70m/s.

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16. (Previously Added) The measuring apparatus according to claim 1, further comprising:

an impact bar for hitting the front end of the input bar.

17. (Previously Added) The measuring apparatus according to claim 16, wherein the specimen includes a viscoelastic material having a viscoelastic characteristic that a maximum strain speed generated at the specimen is 500-8000 per second, when the front end of the input bar is hit with the impact bar at an impact speed of 1m/s - 70m/s.

18. (Previously Added) The measuring apparatus of claim 1, wherein the apparatus measures the strain generated at the specimen when it deforms in a relatively large amount and at a relatively high speed.

19. (Previously Added) The method according to claim 9, wherein the maximum strain speed generated at the specimen is 500-8000 per second, when the front end of the input bar is hit with a impact bar.

20. (Previously Added) The method of claim 9, wherein the viscoelastic characteristic value for the specimen is computed when

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the specimen deforms in a relatively large amount at a relative high speed.

21. (Previously Added) The measuring apparatus according to claim 1, wherein the specimen has a characteristic maximum strain deformation amount in the range from 1% to 30%.

22. (Previously Added) The method according to claim 9, wherein the specimen has a characteristic maximum strain deformation amount in the range from 1% to 30%.

23. (Previously Added) The measuring apparatus according to claim 1, wherein said length of said output bar is set to not less than 500mm nor more than 2500mm, and said length of said input bar is set to not less than 1500mm nor more than 2500mm.

24. (Previously Added) The method according to claim 9, wherein said length of said output bar is set to not less than 500mm nor more than 2500mm, and said length of said input bar is set to not less than 1500mm nor more than 2500mm.

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REMARKSStatus of the Claims

Claims 1-11 and 13-24 are pending in this application. Claim 12 has been canceled. Newly amended claim 1 is amended to further define the length of the input and output bars. Amended claim 9 is based on the incorporation of allowable claim 12. No new matter has been added by the above claim amendments.

Rejection under 35 USC 103(a)

The Examiner rejects claims 1-11 and 14-24 as obvious over Document 1 (*Impact Engineering*, Nikkan Kogyo Newspaper Ltd., October 28, 1988, pp.173-183) in view of Document 2 (Nakagawa et al., *Lecture Thesis of 16th Series of Chugoku Branch of Japan Design Engineering Society Association*, June 20, 1988, pp. 25-29). Applicants overcome the rejection by amending claim 1 to further define the length of the input and output bars so that the input bar is set to not less than 1500mm and not more than 2500mm, and the output bar is set to not less than 500mm and not more than 2500mm. Applicants submit that this limitation is neither disclosed nor suggested by the cited art. Thus, newly amended claim 1 and all claims that depend either directly or indirectly therefrom are allowable. As such, the rejection should be withdrawn.

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Applicants also amend independent claim 9 to incorporate the subject matter of claim 12, which is indicated as being allowable. Thus, the rejection over claim 9 and the claims that depend either directly or indirectly therefrom are also allowable. As such, the rejection should be withdrawn.

Conclusion

As Applicants have addressed and overcome all rejections in the Office Action, Applicants respectfully request that the rejections be withdrawn and that the claims be allowed.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) respectfully petition(s) for a three (3) month extension of time for filing a reply in connection with the present application, and the required fee of \$930.00 is attached hereto.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Kecia Reynolds (Reg. No. 47,021) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By Kate Byrle # 47,021
for Andrew D. Meikle, #32,868

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